STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Wyoming Hospitality Inc,
Petitioner,

v

City of Wyoming,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 20-000509

Presiding Judge
Victoria L. Enyart

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Wyoming Hospitality Inc., appeals ad valorem property tax assessments levied by Respondent, City of Wyoming, against parcel number 41-17-36-101-050 for the 2020 tax year. Seth A. O'Loughlin, and Laura A. Hallahan, Attorneys, represented Petitioner, and Ryan A. Shannon, Attorney, represented Respondent.

A hearing on this matter was held on January 18 and 19, 2022. Petitioner's witness was John R. Widmer, Jr. MAI. Respondent's witness Douglas C. Adams, MAI.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (TCV), state equalized value (SEV), and taxable value (TV) of the subject property for the 2020 tax year is as follows:

Parcel Number: 41-17-36-101-050

Year	TCV	SEV	TV
2020	$8,100,000	$4,050,000	$4,050,000

The parties stipulated to the admission of the witnesses as experts, as well as the admission of exhibits P-1, P-2, P-3, P-8, P-9 and R-1, R-5.

PETITIONER'S CONTENTIONS

Parcel Number: 41-17-36-101-050

Year	TCV	SEV	TV
2020	$8,100,000	$4,050,000	$4,050,000

Petitioner contends that the subject property, a four-story hotel built in 1997, is not unique. The subject is a limited-service hotel (Hampton Inn, under the Hilton Corporation) with 136 rooms, on 2.536 acres, and is located at the outskirts of Grand Rapids. The hospitality market's decline in overall occupancy rates is due in part to the excess of planned hotels and those in the construction phase. This has led to a decline in revenues thus impacting the market value of the subject property as of December 31, 2019. Petitioner's TCV contention is $8,100,000 for 2020.

PETITIONER'S ADMITTED EXHIBITS

P-1 Petitioner's Appraisal Report
P-2 Appraisal Correction Pages
P-3 Petitioner's Revised appraisal
P-8 PWC Report (2020)
P-9 Realty Rates
P-10 Realty Rates Not Admitted

PETITIONER'S WITNESS

Initially, Petitioner requested to call Respondent's expert witness, Mr. Adams, to testify. However, Respondent objected to this request to call its witness out of order. While there has been a limited history by some litigants, taking witnesses out of order (without a proper foundation) is cumbersome in a hearing. After questioning Petitioner's underlying reasoning, the Tribunal deemed Petitioner's request to call Respondent's witness out of order to be unwarranted in this instance. The hearing then proceeded in an orderly fashion with Petitioner's witness being called first.

Petitioner's only witness was John R. Widmer, Jr., MAI who prepared a narrative appraisal report for the subject property. He testified to the general description of the subject property which is located within the northwest quadrant of 54th Street and US-131. The subject competes in a market that has experienced good occupancy rates. However, new construction has created a saturated market. There were 16 existing or proposed hotels under construction with 1,716 rooms. Further 11 properties are in the planning state with 1,033 more rooms.[1] Petitioner contends competition results in lower rates and less demand for the older subject property. Mr. Widmer states, ". . . when you add that many room nights to supply, you have to have some kind of room night demand driver, such as exposition centers, such as higher business trade [for] your transient.[2] The subject's occupancy from 2017 to 2019 was 63.98%, 63.37% and down to 59.95% respectively.[3]

Petitioner's appraiser did not develop a cost approach to value because the subject is older; a cost approach is applicable to new or newer properties. Moreover, investors do not purchase hotel properties on the basis of estimated depreciated worth.

Petitioner considered the sales comparison approach but did not conclude to a separate indication of value from the comparative analysis. Instead, Petitioner presented a summary of 27 hotel properties for a general unit of comparison and an average price per key (a.k.a., price per room - $/room). There was no measure of economic performance for the comparable sales due to the difficulty in securing reliable information.

[1] P-3, at 89.
[2] Tr, 1 at 29.
[3] Tr, 1 at 41.

Regarding an income analysis, Mr. Widmer utilized Smith Travel Research (STR), CBRE, and Census data information from the local market. STR reports were relied upon as an indication for the subject's performance (as well as 5 subsets) in 2018 and 2019. The overall market declined in 2019; however, the subject's occupancy decreased by 5.6% which was double the comparable properties. The average daily rate (ADR) decreased at 2.8%. Petitioner points out that revenue per available room (RevPAR) is a composite of occupancy and ADR. The subject's RevPAR is down 9.1% and was part of Petitioner's consideration as the subject is older, dated, and located in a saturated market. Petitioner's appraiser summarized the direct capitalization approach stating,

> You're using a stabilized one point in time net operating income. So, for a hotel property you basically get to the revenue side, you -- you establish departmental expenses, which takes you to a gross operating profit, then you deduct all other expenses to get down to net operating income. You then capitalize that at a -- at a cap rate sufficient to reflect the risk on return of and – return on and of that investment. [4]

Mr. Widmer's income analysis and research indicated that increased rooms from 2017 to 2019 created a loss in occupancy and room rates. These losses occurred at the subject as well as all hospitality properties. The subject's occupancy, ADR, and RevPAR decreased for these particular years. Petitioner's appraiser further explained the market participants regarding the direct capitalization method to value.

> Essentially, it's owners, buyers of existing hotel property that if you have a stabilized, long-term operating metric you don't build into the model future risk or uncertainties by doing a DCF analysis. It's one point in time return on and of, no uncertainty or risk going forward in a ten-year forecast or five-year forecast.[5]

[4] Tr,1 at 32.
[5] Tr.1 at 34.

Petitioner reviewed and researched Residence Inn, Comfort Suites, Holiday Inn Express, Hampton Inn, Hyatt, and Springhill Suites. Further, Petitioner utilized the CBRE Hotels Research "Trends in the Hotel Industry." for the operating metrics and revenue. Again, the subject's occupancy declined more than the competition, which contributed to the revenue decline from 2018-2019.

Petitioner presented forecasts from the following tables illustrating revenue for calendar year-end December 2020, as it relates to the December 31, 2019, valuation:[6]

Period	One
Year End	12/31/2020
# of Rooms	136
Available	49,776
Occupied Rooms	29,119
Occupancy	58.50%
ADR	$122
Ch Year/Year	-1.35%
RevPAR	$71.37
Ch Year/Year	-3.74%

Revenue	$	Ratio to Revenue	Dollars/ Room	Dollars/ Occupant	% Rooms Revenue
Rooms	$3,552,513	97.7%	$26,121	$122.00	
Other Operating Income	$49,735	1.4%	$366	$1.71	1.4%
Other Income	$35,525	1.0%	$261	$1.22	1.0%
Subtotal	$3,637,773	100.0%	$26,478	$124.93	

As shown, the occupancy and ADR equal RevPAR of $71.37 which is 3.7% below the 2019 actual. The 2018-2019 actual RevPAR indicates a 9% decline and the competitive properties declined 5.2%. Petitioner's appraiser asserts that the forecast is for stabilization, but not as a single year decline in performance.

[6] P-3 at 90.

Next, expenses were based on published hotel data, as well as Trends US Edition 2020 (as complied from 2019 actual figures). The operating expenses include departmental, undistributed operating expenses as well as non-operating income and expenses. Overall, data from 24 hotels in Michigan were reviewed, expenses were summarized.[7]

Petitioner's appraiser's brief explanations cover the categories and ratios which were utilized. Departmental expense includes rooms, daily maintenance and rent of guest rooms. This included other operating guest services that did not fit in any other category. Administrative and general expenses included payroll and benefits relating to marketing and support services. Information and telecommunications (I&T) included labor, salaries, contracted services. Sales and marketing promote hotel services had a separate line item for Royalty Fees (6% monthly) and Franchise Fees (4% monthly). Operations and maintenance included the building and lawn and snow services. Electric, gas, sewer and water are included in utilities. A management fee of 3.5% for a third-party group was added. Personal property taxes were based on the actual 2020 taxes for the subject. Property and casualty insurance was based on 0.7% with 0.4% set for other variable expenses. PwC Real Estate Investor Survey and Realty Rates Survey were both considered to derive a 4.4% for reserve replacements for short-lived items. The expenses were then deducted from the revenue as follows:[8]

Summary of Expenses	$	Ratio to Revenue	Dollars/ Room	Dollars/ Occupant
Departmental	$2,669,500	73.4%	$19,629	$91.68
Operating Expenses:	$1,195,577	32.9%	$8,791	$41.06
Administrative	$345,588	9.5%	$2,541	$11.87

[7] P-3 at 95.
[8] P-3 at 99.

IT	$58,204	1.6%	$428	$2.00
Sales & Marketing	$109,133	3.0%	$802	$3.75
Franchise Fees	$355,251	10.0%	$2,612	$12.20
O & M Utilities	$327,400	9.0%	$2,407	$11.25
Management Fee	$127,322	3.5%	$936	$4.37
Other Income	-$3,638	0.1%	-$27	-$0.12
PP Taxes	$10,994	0.3%	$81	$0.38
Insurance	$25,464	0.7%	$187	$0.87
Other	$14,551	0.4%	$107	$0.50
NOI after Reserves	$1,139,168	31.3%	$8,376	$39.12

Regarding a capitalization rate analysis, Mr. Widmer considered both PwC National Limited-Service and Economy Lodging rates, for 1Q-2019 at 9.05% and 1Q-2020 at 10.35%. Petitioner concluded to a 10.35% base capitalization rate and added the tax neutral 3.06% to arrive at a 13.31% overall capitalization rate.

In the last step, the NOI was divided by the .1331 OAR (overall rate) to arrive at $8,560,878 as a going-concern value. Personal property of $448,600 was deducted for a rounded TCV of $8,100,000 as of December 31, 2019.

On cross examination, Mr. Widmer was questioned on the reserves for replacements (as taken out of the OAR) which is actually higher than Realty Rates. He explained that the five comparable properties had reductions, but only one property showed deductions for FF&E (not including reserves). The other four comparables did not disclose whether reserves were taken out prior to the application of the capitalization rate.

When questioned on the subject's occupancy for 2017-2019, Mr. Widmer stated that the subject has been trending downward at an occupancy rate below that of its competitive set. He pointed out that Springhill Suites added 100 rooms in March 2018, but his information did not show or discuss the other hotel openings. Mr. Widmer included projections through 2026. The data shows the hospitality industry bottoming out in 2021 and slowly increasing by 2026. Stabilization occurs in 2026 but no further details were provided. He testified that the Gross National Product and hotel demographics are closely related.

STR data was considered to be premium data, but Mr. Widmer utilized CBRE's Trends data. The CBRE summary[9] illustrated 2019 undistributed operating expenses. The administrative and general revenue figure is 7.6%.[10] However, Petitioner relied on revenue of 9.7%[11] This error changed Petitioner's subtotal from 33.6% to 28.3%. Furthermore, these percentage figures did not appear to be in the over $115 room category, but rather in the $75 and under category. Mr. Widmer responded that it appears to be a math error. Respondent pointed out that this issue continued on Petitioner's revised appraisal report.[12] From the hotel trend survey, CBRE Hotels Research, the Hotel Trend Survey (page 12), Mr. Widmer used the 2019 revenue percentage figures for the under 100 room category rather than the 100-150 room category. Mr. Widmer could not determine what the impact would be if the errors were fixed. He agreed that the two incorrect data points were baked into the ratios.[13]

RESPONDENT'S CONTENTIONS

Value on the Assessment Roll:

Parcel Number: 41-17-36-101-050

Year	TCV	SEV	TV
2020	$9,261,600	$4,630,800	$4,630,800

[9] R-5.
[10] R-5.
[11] P-3, at 92.
[12] P-3, at 93.
[13] Widmer contended that column A in P-3 at page 94 matches R-5 at page 11.

Respondent's Contentions:

Parcel Number: 41-17-36-101-050

Year	TCV	SEV	TV
2020	$11,340,000	$5,670,000	$4,630,800

Respondent contends that the subject property is undervalued. Respondent argues that Grand Rapids has not had such an influx of rooms as in the last few years as claimed by Petitioner. To the contrary, the subject is located in a superior market. Respondent contends that in 2010 there were too few rooms. However, by 2017 there was a mass of new hospitality construction which led to declining occupancy rates and revenue. On the other hand, the 2019 market was in flux. Respondent asserts sellers look at multiple years of data with a multi-year discounted cash flow (DCF) in making market decisions. Respondent developed a 10-year DCF to determine the TCV of the subject property. Respondent requests an increase in TCV from the BOR's TCV of $9,261,600 to $11,340,000.

RESPONDENT'S ADMITTED EXHIBITS

1. R-1 Respondent's Appraisal Report
2. R-5 CBRE Hotel Trends 2020 Excerpts

RESPONDENT'S WITNESS

Douglas C. Adams, MAI, prepared Respondent's 2020 narrative appraisal report for the subject property by utilizing STR hotel dataset to develop a DCF. The majority of his hotel valuations are for bank refinancing. He testified that since 2018 everything that he has done has been a DCF analysis. The bank lenders prefer it due to the influx of new competition in the area. Respondent points out that Mr. Adams previously appraised the subject property for its initial construction.

Mr. Adams testified that the Grand Rapids market is one of the fastest growing areas in the state. The subject is located in an area with retailers, restaurants, signage, and it is close to the off-ramp for US-131. In his 25 years of appraising hotels, he has never seen this increase in the number of hotels entering the market. The attraction and flood of new competition has only caused a temporary decline in ADR, occupancy, and RevPAR. Regarding the current market, Mr. Adams responded, "It's very unstable, just as I stated. The enormous number of new hotels coming in all at once is disrupting the market. So, we are seeing significant drops in occupancy and ADR in the current market."[14] Nonetheless, STR indicates that in December 2019 rates were 17% higher than December 2020.[15]

Regarding the relevance of the DCF for an income analysis, Mr. Adams points to forecasting for expected changes in the Grand Rapids market. The big influx of hotels has created an unstable market in the short term. However, as the market absorbs these hotel rooms, projected demand will continue with expected stabilization in the future.

Mr. Adams contends that a direct capitalization analysis is more difficult when attempting to get a reasoned capitalization rate. On the other hand, a DCF helps to project occupancy rates outward. Mr. Adams reasons and states,

> So, a DCF is the only method that really tracks and takes into account those changes in market conditions. Now, when you're doing a direct cap, you're coming up with an average over the projected life of the project. And when you've got a variable income stream like the subject's, the only way to get an average is to project it out like you do with a DCF.[16]

[14] Tr.1 at 171.
[15] R-1 at 38.
[16] Tr.1 at 172-173.

Mr. Adams reviewed 14 rental comparables and analyzed STR reports to determine that demand has increased by 8.3% in the last two years and ADR increased by 4% annually. However, the subject property decreased in occupancy and ADR in 2018 and 2019 due to several new hotels. For example, the Best Western reopened after a fire and rebranded in December 2017. Springhill Suites opened March 2018 and Hampton Inn & Suites opened February 2019. The supply of hotels that are under construction or planned include Staybridge Suites (109 rooms), Townplace Suites (116 rooms), Holiday Inn Express (107 rooms), and Fairfield Inn and Suites (116 rooms). The new hotels added 448 rooms in 2020-2021. The subject's comp set for 2019 was 306,157. The demand is forecasted to increase 5% in 2020. ADR for 2019 is $116.27, which is estimated to decrease in both 2020 and 2021 before stabilizing. Occupancy in 2023 is forecasted at 57.9%. The hotel industry should be stabilized until 2029-2030.[17]

The following is Respondent's comparable summary:[18]

Flag	Rooms	Built	Location	Condition	Amenities	Quality	Room Rate
Comfort Inn	78	2003	Inferior				Less
Quality Inn	58	1996	Inferior	Inferior	Inferior	Inferior	Less
Holiday Inn	76	2003			Superior		Higher
Best Western	69	2004/12	Inferior	Inferior		Inferior	Less
Hyatt Place	113	2008	Superior	Superior		Superior	Higher
Hampton Inn	101	2018	Superior	Superior			Higher
Springhill	100	2018	Superior	Superior		Superior	Lower
Residence Inn	90	2000	Superior	Superior		Superior	Higher
Comfort Suites	66	1999		Inferior			Lower
Holiday Inn Exp	77	1997	Inferior				Less
Best Western	80	1987/17	Inferior			Inferior	Less
Hampton Inn	84	1998	Superior				Higher
Hampton Inn	98	2006/15					Similar

[17] Tr.1 at 180.
[18] R-1 at 40-45, Tr.1 at 169.

Mr. Adams contends the inputs for the DCF show that the subject's RevPAR and ADR are reflective of the comparable summary and then project the room revenue (and RevPAR) through 2030. Tax revenue is at 14.85%, billboard at $4,900, and guest refunds $500 annualized. After estimating the total revenue, operating expenses, and deducting reserves, the result is NOI to the income analysis.

Respondent also reviewed franchise fees which are based as a percentage of operating income, and calculated replacement reserves of 1.8% were based on STR reports. However, when questioned, Mr. Adams did not know if the owner established a replacement reserve. Likewise, the owner did not pay a management fee.

The projected NOI started January 2020 and ends December 2025. The capitalization rate was derived from five Hampton Inn sales summarized below:

Comp	Location	Rooms	Age	Sale Date	Cap Rate%
1	Middleberg, OH	97	21	Mar 19	7.29%
2	Monroeville, PA	140	21	Aug 18	7.94%
3	McHenry, IL	117	16	Mar 19	9.80%
4	Columbus, OH	79	15	May 17	10.24%
5	Delta Twp, MI	86	3	Mar 16	9.50%

Respondent considered PwC and RERC surveys as well for capitalization rates. The discount rate was adjusted for a tax rate equivalency to 13.49%. The reversionary rate was determined at 11.99% for the 10-year holding period and resulting in a present value of $13,146,267. If the property were to sell, Mr. Adams believes the subject would be part of a portfolio as an investment grade property. PwC does include a reserve, but RealtyRates does not. This gave him pause, as the rate was too high. Respondent's DCF analysis and calculations as follows:

Year	1	2	3	4	5
	2020	2021	2022	2023	2024
Net Income	$1,386,579	$1,247,016	$1,329,086	$1,416,573	$1,513,961
Reversion (11.99%)					
Cost of Sale 3%					
Net Sale					
Discount Rate 13.49%	0.8811	0.7764	0.6841	0.6028	0.5311
Present Value	$1,221,763	$968,182	$909,244	$853,903	$804,131

Year	6	7	8	9	10	End
	2025	2026	2027	2028	$2,029	2029
Net Income	$1,609,251	$1,715,228	$1,828,200	$1,953,958	$2,077,005	$2,213,855
Reversion (11.99%)						$18,464,176
Cost of Sale 3%						-$553,925
Net Sale						$17,910,251
Discount Rate 13.49%	0.4680	0.4124	0.3634	0.3202	0.2821	0.2821
Present Value	$753,144	$707,324	$664,298	$625,600	$585,951	$5,052,726

The DCF above resulted in Respondent's present value of $13,146,267.[19]

Respondent developed and considered the sales comparison approach to value but gave it little weight. Overall, sales data is limited because hotels are often sold in packages and allocating a sales price to each property is difficult.[20]

Flag	SP	Rooms	SP/Room	Built	Location	Cond
Comfort Inn	$3,500,000	79	$44,304	2005	Dimondale	Avg
Hampton	$10,000,000	97	$103,093	1998	Ohio	Good
Hampton*	$10,300,000	117	$88,034	2003	Illinois	Good
Hampton	$6,495,000	79	$82,216	2002-15	Ohio	Avg
Hampton	$10,750,000	86	$125,000	2013	Delta Twp	Very Good
Hampton**	$12,971,378	84	$153,421	1998	Gr Rapids	Good

The comparable sales were quantitatively adjusted, and Mr. Adams further explained the differences in qualitative terms:

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[19] R-1 at 68.
[20] The Illinois property is a 2017 sale. The Grand Rapids property was part of a portfolio sale.

> The adjustments of the comparables are made in a logical progression and include property rights conveyed, terms of sale, date of sale, location, age and quality of the improvements, size of the building, and other characteristics of the improvements. It should also be noted that the location adjustments took into consideration not only the physical location of the properties but also the economic conditions reflected in their various RevPAR figures.[21]

The adjusted sales ranged from $69,290 to $150,414 per key with a median of $91,563. Respondent concluded to an adjusted value per room at $95,000 and an equated value of $12,920,000 for the subject's 136 rooms.

In reconciliation, the sales comparison approach was weighted at 10% and the DCF was weighted at 90%. After deducting personal property and business enterprise, the subject's market value is $11,340,000.

On cross examination, Mr. Adams was questioned on his 6 comparables which sold as going-concern values. Petitioner asserted that no distinctions or allocations were made to Respondent's sales. Mr. Adams acknowledged that he is not a licensed real estate appraiser in Illinois or Ohio. He is not aware of the property tax laws in these states. Likewise, he did not inspect the out of state comparable sales.

Respondent's appraiser explained that sale 1 (Dimondale, MI) had a projected NOI of $242,103 and is 1/5 the size of the subject. This sale is inferior to the subject. Sale 6 (Grand Rapids, MI) was part of a portfolio sale which included 116 properties for $1.8 billion. Mr. Adams did not know how the portfolio value as allocated. Sale 5 (Delta Township, MI) was a 3-year old building at the time of its sale in 2016. Sale 5 included $250,000 for improvements as expenditures immediately after sale. Mr. Adams believes

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[21] R-1 at 79.

these expenditures were not typical. He did not know the buyer's motivations but noted that Hampton Inn has high standards for its properties.

Mr. Adams was questioned about his 14 income comparables. He explained that STR was utilized to determine that the average ADRs at 17% and is lower as of December 31, 2019. The STR report does not disclose individual properties. However, the denoted flag determines what the ranking is given by STR. The subject is considered an upper mid-scale class. Respondent utilized upper mid-scale and upscale properties. Mr. Adams affirmed that rental 6 is an upscale Hyatt Place. Nonetheless, it rents for close to the Hampton Inn. Rental 7 (Grandville Hampton Inn) was also considered to be an upper midscale by Respondent. Rentals 2 and 4 (Quality Inn and Baymont Inn, respectively) are lesser brands believed to be midscale. While some of the Hampton Inns are part of the same flag sample, they are not considered to be direct competitors to the subject. Rental 3 has an indoor waterpark; the subject lacks this amenity. Rental 4 has an attached restaurant; the subject lacks this amenity. Rental 9 has rooms with fireplaces; the subject lacks this feature.[22]

Again, the subject's occupancy rate, RevPAR, and room revenue decreased from 2017 to 2019. The ADR increased less than a dollar from 2017 to 2018 and decreased by five dollars from 2018 to 2019. Three calendar years for 2017, 2018, and 2019 indicate the occupancy rate, RevPAR and room revenue decreased across the board. ADR increased less than a dollar from 2017 to 2018 and decreased by five dollars from 2018 to 2019. The report does not contain sufficient data to predict an

[22] Tr, 2 at 276

increase.[23] Respondent contends that the data analysis was based on 14 properties (including new construction) in close proximity to the subject. The data analysis did include all of the available hotels. The DCF model did not make adjustments for leap years. When questioned about the evidence or source for the demand increase found in the DCF, Mr. Adams pointed to the 14 properties. The historical data for the 14 properties from 2012 to 2019 shows a significant increase in demand. Further, the Grand Rapids market supports this demand analysis.

Respondent argues that the local information is utilized realizing that the actual population increases are not relative to visitors, as it is generally not the same population that stay in hotels in the same community. The information does not indicate that occupancy has increased 5% in any year.[24] However, Respondent forecast 5% increase in occupancy in 2020, and thereafter 2.5% a year.[25] On redirect, Mr. Adams explained that his source for the 1.8% replacement for reserves as well as expense data was STR, and not from the fourteen comparables.[26]

FINDINGS OF FACT

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusion and has rejected evidence contrary to those findings.

1. The subject property is located at 755 54th Street, in the City of Wyoming and within Kent County.
2. The city of Wyoming is a suburb of the City of Grand Rapids.

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[23] R-1 at 54.
[24] Tr, 2 at 278
[25] Tr. 2 at 284 and 301-302.
[26] Tr. 2 at 370-371. Respondent requested the Tribunal to take judicial notice of the STC Bulletin 2 of 2020.

3. The subject property is a Hampton Inn.
4. The subject property is comprised of 2.54 acres and is improved with a 66,906 square feet hotel, with 136 rooms and it was constructed in 1997.
5. The subject property was renovated in 2015-2016.
6. Petitioner purchased the subject on February 12, 2016, for $8,500,000.
7. The subject property has not been renovated since purchase.
8. Hampton Inn by Hilton is a limited service, upper middle scale hotel.
9. The subject is Class C, good quality construction.
10. The US-131 freeway is located one-quarter mile to the east, and connects I-96, I-196, and M-6 freeways.
11. The subject property is surrounded with commercial properties.
12. Petitioner submitted valuation evidence in the form of a narrative appraisal report prepared by John Widmer.
13. Petitioner's appraiser developed a sales comparison approach and an income approach to value.
14. Petitioner's appraiser relied on a 1-year direct capitalization.
15. Respondent relied on a 10-year DCF.
16. Petitioner's TCV before corrections was $7,650,000 and reconciled to $8,100,000.
17. Respondent submitted valuation evidence in the form of a narrative appraisal report prepared by Douglas Adams.
18. Respondent's appraiser developed a sales comparison approach and an income approach to value.
19. Respondent's TCV is $11,340,000.
20. There are a total of 19 hotel properties located within a 5-mile radius of the subject property, including four under construction and two proposed hotel properties.
21. The effective date for this tax appeal matter is December 31, 2019, tax day for the 2020 tax year.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its TCV.[27]

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true

[27] See MCL 211.27a.

> cash value at which such property shall be uniformly assessed, which shall not exceed 50 percent.[28]

> The Michigan Legislature has defined TCV to mean:

> The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.[29]

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”[30]

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”[31] The Tribunal is not bound to accept either of the parties' theories of valuation.[32] “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”[33] In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”[34]

A proceeding before the Tax Tribunal is original, independent, and de novo.[35] The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”[36] “Substantial evidence must be more than a scintilla of

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[28] Const 1963, art 9, sec 3.
[29] MCL 211.27(1).
[30] *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).
[31] *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).
[32] *Teledyne Continental Motors v Muskegon Twp,* 145 Mich App 749, 754; 378 NW2d 590 (1985).
[33] *Meadowlanes Ltd Dividend Housing Ass'n v Holland,* 437 Mich 473, 485; 473 NW2d 636 (1991).
[34] *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).
[35] MCL 205.735a(2).
[36] *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

evidence, although it may be substantially less than a preponderance of the evidence."[37]

"The petitioner has the burden of proof in establishing the true cash value of the property."[38] "This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party."[39] However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question."[40]

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation approach.[41] "The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading."[42] The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the TCV of the property, utilizing an approach that provides the most accurate valuation under the circumstances.[43] Regardless of the

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[37] *Jones & Laughlin Steel Corp, supra* at 352-353.
[38] MCL 205.737(3).
[39] *Jones & Laughlin Steel Corp, supra* at 354-355.
[40] MCL 205.737(3).
[41] *Meadowlanes, supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), aff'd 380 Mich 390 (1968).
[42] *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).
[43] *Antisdale, supra* at 277.

valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.[44]

The Michigan Supreme Court has stated "[i]t is not enough for a party 'simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments.' *Mitcham v City of Detroit*, 355 Mich 182; 94 NW2d 388 (1959)." *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

The present case involved two MAI appraisers admitted as expert witnesses with access to the same information which resulted in differing opinions of value. The TCV conventions narrowed based on Petitioner's acknowledged mathematical and data resource errors which resulted in a $450,000 shift in Petitioner's TCV.

Through extensive cross-examinations, the parties' appraisal reports have noted issues and differences. More specifically, Respondent utilized STR reports but Petitioner did not rely on this data source. Next, Petitioner capitalized one year of income for the subject. On the other hand, Respondent did a 10-year DCF analysis with hotel rates from December 2020.[45]

Petitioner determined that the subject property is classified as an upper midscale property. The group rate over $115 for 2019 (North Central Geographical Division) is the 100-150 room classification. However, on cross-examination, Mr. Widmer admitted that the administrative and general expenses for 2019 contained an incorrect percentage of 9.7%. Research data[46] indicated expenses of 7.6% which decreased the

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[44] See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).
[45] R-1 at 39.
[46] R-5 at 10, CBRE Hotel Research, *Trends in the Hotel Industry*, US Edition 2020

sub-total from 33.6% to 28.3%. Non-operating income and expenses of 11.4% was deducted and resulted in 13.10% versus the stated 21.1%. Widmer agreed that it was an error but could not estimate corresponding difference in value. Likewise, he did not know what the ultimate impact would be on the overall value.[47] On redirect, Petitioner contended that P-3 (page 94) matched up with Respondent's exhibit R-5 (page 11). Petitioner's conclusion of value did not change based on any alleged changes between these two exhibits.[48]

Petitioner utilized "*Trends*"[49] for statistical information, but the only column of information that was correct was the 2019 North Central Location. Both the 2019 ADR (over $115) and the 2019 rooms (100-150) contained incorrect information for the percentage of revenue columns. Nonetheless, the total percentage of occupancy, ADR, RevPAR, and average size rooms total at the bottom-line appear to be correct.[50] The Tribunal finds that errors within two out of three columns resulting in different percentages may cast some doubt on the Petitioner's income approach. However, Petitioner's appraiser testified that the error did not affect his conclusion of market value for the subject property.

Respondent's reliance on a 10-year DCF indicated an increase in the market value of the subject property. However, the appraisal report indicated that the hotel rates were updated to December 2020 for the 14 rent comparables. Petitioner refuted this rental analysis because the STR report relied on 2019 data. As stated, the STR report did not detail individual properties. Rather, it gives ranges showing that the 2019

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[47] Tr. 1 at 151-152.
[48] Tr. 1 at 153.
[49] CBRE Hotels Research *Trends in the Hotel Industry* US Edition 2020
[50] P-3 at 91-94.

STR rates were 17% higher than 2020.[51] As a reminder, tax day is December 31, 2019, for the 2020 tax year. Respondent's rental comparables rates were updated to reflect 2020 which were utilized in the DCF resulting in an increase in TCV for the December 31, 2019, tax year.

However, the Tribunal is not persuaded by the alleged increase in valued based on the owner's historical occupancy, ADR, RevPAR, and revenue. In this regard, Respondent's following narrative does not make sense.

> Occupancy for the subject decreased by 0.9% from 2017 to 2018 and decreased from 2018 to 2019 by 5.4%. ADR for the subject increased by 0.6% for 2017 to 2018 and decreased from 2018 to 2019 by 3.8%. RevPAR for the subject decreased by 0.3% from 2017 to 2018 and decreased by 9% from 2018 to 2019. Total room revenue decreased by 0.3% from 2017 to 2018 and decreased by 9.0% from 2018 to 2019.[52]

This statement, without any additional information, does not indicate that the subject property is increasing in value. To the contrary, the above statement indicates an overall decrease. Further, the STR report says, "demand has increased", the supply increased from 378,340 to 436,084 in 2017 and increased to 475,749 in 2019. Occupancy was in a downward mode as ADR and RevPAR also declined. The statement that demand has increased without discussing the 97,400 additional new rooms added is misleading. The ADR increase in the comparable dataset is unclear as the 14 rentals comparable rates were updated to December 2020, a year after December 31, 2019.

National publications are not as reliable (as opined by Mr. Adams), as local information. The influx of new hotels has appeared to flood the market along with the existing hotels resulting in a drop in occupancy at minimum for the first couple of years.

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[51] R-1 at 38.
[52] R-1 at 54.

An additional 448 rooms are expected to open in 2020 and 2021. It is unclear how the 2019 demand for 306,157 rooms, with a supply of 473,749 indicates that demand will increase by 5% in 2020. The difference in supply and demand appears to be attributed to an over-supply of 167,592 rooms (which were not occupied).

Respondent's projections considered historical information from 2017, 2018, and 2019 to project a RevPAR in its DCF from 2020 to 2030. Respondent's report did not acknowledge the December 31, 2019, tax day. The projected 10-year DCF for income began in 2020 and was devoid of the 2019 historical NOI.

Respondent's five Hampton Inn capitalization comparables included only one Michigan sale (occurring in 2016). Two Ohio sales (2017 and 2019), one Pennsylvania sale (2018) and one Illinois sale (2019) were not inspected by Respondent's appraiser. Respondent's lack of details or write-ups for these sales is unpersuasive. Further, the discount rate of 10.50% was selected with the effective tax resulting in 13.49% and a reversion of 11.994%. The relevance of a local sale in 2016 as well as four sales to influence the discount rate for the December 31, 2019, tax date for the 2020 DCF is equally unconvincing.

It is unclear if Respondent's value increase of $2,079,000 is an increase for 2019 or 2020 in the DCF. First, the appraiser goes back and forth between 2019 and 2020 information without application to the December 31, 2019, tax day. A DCF beginning in 2020 is not reliable given this tax day. Second, 2020 Covid restrictions forced shutdowns which were not recognized by Respondent. Third, the addition of several new hotels with added rooms while competing with the subject did not indicate that the subject would increase $2,079,000 in value. The current influx of additional new rooms to compete with existing rooms would logically be a decrease until the occupancy increased. Fourth, although the sales comparison approach was not used, the lack of adjustments and analysis was insufficient.

In general, a DCF may suit the purposes for bank financing but is not reliable in the context of this tax appeal matter. Again, the confusion between 2019 and 2020 is not meaningful for a reader of Respondent's appraisal report. Respondent's variables and inputs for its DCF do not foster a cogent methodology. Given the fact that the subject is 22 years old and competes with an influx of new construction only leaves unresolved questions from Respondent's report. For these reasons, Respondent's appraisal report and DCF are given no weight or credibility in the independent determination of market value for the subject property.

As noted, the Petitioner's appraiser considered the sales comparison approach to value. Given the fact that the subject is an income producing property, neither party developed the sales comparison approach to a conclusion of value. Petitioner reviewed 27 sales from 2017 to 2020 and all are located in Michigan. As stated by Petitioner's appraiser, "There was no measure of economic performance for the comparables." The unadjusted sale prices were quantified in a simple weighted average of $55,000 per key resulting in an indication of value at $7,480,000.

Respondent's comparative analysis included 6 properties (with three sales in Michigan). Respondent adjusted the comparable sales to derive a unit of comparison of $95,000 per key. The indication of value at $12,920,000 was for the subject's going concern.

The Tribunal finds that Petitioner’s utilization of 27 unadjusted properties that sold indicates a slightly lower value than the income approach. Respondent’s sale 1 in Michigan is the only sale that would be considered relevant.

The Tribunal agrees with the parties that the sales comparison approach while it assists in determining that there are sales of hotel properties in Michigan neither party relied on the approach.

Regarding the testimony of Petitioner’s expert witness, the issue of income calculations and errors is inconclusive. On cross-examination, Mr. Widmer admitted that such errors would affect value. On redirect examination, Mr. Widmer testified that his errors did not change his conclusion of value. Petitioner’s overall income analysis is straightforward and is otherwise meaningful. The acknowledged errors from the national statistical information does not appear to impact Petitioner’s bottom line totals or conclusion of value.

The Tribunal considered both the parties’ income approaches, testimony, and evidence and finds that Petitioner’s income approach for the correct tax year to be appropriate. Said differently, Petitioner’s income analysis is the most reliable and credible valuation evidence showing a slight decrease in the subject property’s TCV. Again, Respondent’s DCF analysis was considered and found not to be reliable or credible. A value increase for the subject’s older building by more than $2 million where there is a large gap between number of rooms available and the lack of occupants is perplexing.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property is over assessed. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's SEV and TV for the tax year(s) at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2013, through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, and (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, and (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By Victoria L. Enyart

Entered: September 27, 2022

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk